

FIRST REGULAR SESSION

HOUSE BILL NO. 902

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARDWICK.

2066H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 431, RSMo, by adding thereto one new section relating to business covenants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 431, RSMo, is amended by adding thereto one new section, to be known as section 431.204, to read as follows:

431.204. 1. A reasonable covenant in writing promising not to solicit, recruit, hire, induce, persuade, encourage, or otherwise interfere with, directly or indirectly, the employment of one or more employees or owners of a business entity shall be presumed to be enforceable and not a restraint of trade pursuant to subsection 1 of section 416.031 if it is between a business entity and the owner of the business entity and does not continue for more than two years following the end of the owner's business relationship with the business entity.

2. A reasonable covenant in writing promising not to solicit, induce, direct, or otherwise interfere with, directly or indirectly, a business entity's customers, including any reduction, termination, or transfer of any customer's business, in whole or in part, for the purposes of providing any product or any service that is competitive with those provided by the business entity shall be presumed to be enforceable and not a restraint of trade pursuant to subsection 1 of section 416.031 if the covenant is limited to customers with whom the owner dealt and if the covenant is between a business entity and an owner, so long as the covenant does not continue for more than five years following the end of the owner's business relationship with the business entity.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **3. A provision in writing by which an owner promises to provide prior notice of**
18 **the owner's intent to terminate, sell, or otherwise dispose of such owner's ownership**
19 **interest in the business entity shall be presumed to be enforceable and not a restraint of**
20 **trade pursuant to subsection 1 of section 416.031.**

21 **4. If a covenant is overbroad, overlong, or otherwise not reasonably necessary to**
22 **protect the protectable business interests of the business entity seeking enforcement of**
23 **the covenant, a court shall modify the covenant, enforce the covenant as modified, and**
24 **grant only the relief reasonably necessary to protect such interests.**

25 **5. Nothing in this section is intended to create or to affect the validity or**
26 **enforceability of covenants not to compete, other types of covenants, or nondisclosure or**
27 **confidentiality agreements, except as expressly provided in this section.**

28 **6. Except as provided in subsection 3 of this section, nothing in this section shall**
29 **be construed to limit an owner's ability to seek or accept employment with another**
30 **business entity immediately upon, or at any time subsequent to, termination of the**
31 **owner's business relationship with the business entity, whether such termination was**
32 **voluntary or nonvoluntary.**

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